



STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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TO PARTIES OF RECORD IN RULEMAKING 13-02-008:

This is the proposed decision of Commissioner Rechtschaffen. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's December 5, 2019 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:mph

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER RECHTSCHAFFEN**
(Mailed 11/1/2019)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Adopt Biomethane Standards and
Requirements, Pipeline Open Access
Rules, and Related Enforcement
Provisions.

Rulemaking 13-02-008

**DECISION ESTABLISHING A RESERVATION SYSTEM FOR THE
BIOMETHANE INCENTIVE PROGRAM, EXTENDING DATE AND
ADDRESSING RATE RECOVERY FOR PIPELINE INTERCONNECTION
INFRASTRUCTURE**

Summary

This decision implements an Incentive Reservation System for the biomethane monetary incentive program established in Decision 15-06-029. The biomethane monetary incentive program provides up to \$3 million for non-dairy clusters and \$5 million for dairy clusters that successfully interconnect with the natural gas pipeline system and operate by December 31, 2021. The Incentive Reservation System allows project developers to reserve incentive funds during the development phase of a project and receive the funds once the project is interconnected and operating. Applications for the Incentive Reservation System are designed to ensure that only viable projects can secure a spot on the reservation list. The Commission will maintain the Incentive Reservation System and make it publicly available to promote the transparency of the use of funds.

The decision also addresses consideration of rate recovery for pipeline interconnection infrastructure pursuant to Public Utilities Code §784.2.

1. Background

Decision (D.) 15-06-029 established a biomethane monetary incentive program to encourage biomethane producers to design, construct, and safely operate projects that interconnect and inject biomethane into California's natural gas utilities' pipeline systems.¹ Initially, the incentive program authorized \$40 million for incentives of up to \$1.5 million per project, for projects that successfully interconnect and operate by June 11, 2020. The incentives are paid by the gas utility that operates the pipeline system where the facility interconnects.

Public Utilities Code §399.19² extended the monetary incentive program to December 31, 2021 and increased the incentives to \$3 million for non-dairy clusters and \$5 million for dairy clusters. The Commission implemented AB 2313 in D.16-12-043.³ Only two projects have received incentives, and approximately \$32 million remains available. On October 2, 2019 Governor Newsom signed into law, SB 457 (Hueso 2019), which extends the program until

¹ D.15-06-029, *Decision Regarding the Costs of Compliance with Decision 14-01-034 and Adoption of Biomethane Promotion Policies and Program*,

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M152/K572/152572023.PDF>

² AB 2313 (Williams 2016),

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2313

³ D.16-12-043, *Order Modifying Decision 15-06-029 in Response to the December 1, 2015 Petition for Modification and to SB 840 and AB 2313*,

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M171/K303/171303439.PDF>

December 31, 2026, or until all available program funds are expended, whichever occurs first.⁴

A July 5, 2018 Assigned Commissioner's Scoping Memo and Ruling requested party comment on, among other things, extending the timeframe of the Biomethane Monetary Incentive Program.⁵ In comments, many parties indicated having a reservation system that would allow project developers to reserve incentive funds during the development phase of a project, rather than risking that the incentive funding will be expended before the project is online.

2. Implementation of SB 457

In accordance with SB 457, the date for awarding pipeline interconnection incentives is extended to December 31, 2026, or until all available incentive funds are expended, whichever occurs first. Accordingly, Ordering Paragraph 2.a. of (pages 44-46) of D.15-06-029 shall be modified to state that the incentive program shall be in effect until December 31, 2026... In addition, Ordering Paragraph 2.h. of D.15-06-029 shall be modified to state that the utilities' reporting obligation terminates on January 16, 2027.

3. Biomethane Reservation System

Many parties stated that a reservation system for the pipeline interconnection incentives would facilitate new biomethane projects.

3.1. Party Comments

Parties supporting a reservation or queue system include: Bioenergy Association of California (BAC); DTE Biomass Energy; California Association of

⁴ SB 457 (Hueso 2019),
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200SB457

⁵ Phase 3 Scoping Memo issued on July 5, 2018,
<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M217/K229/217229016.PDF>

Sanitation Agencies (CASA); Climate Resolve; Clean Energy; Agricultural Energy Consumers Association (AECA); Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E); East Bay Municipal Utility District (EBMUD); Harvest Power; Dairy Cares; DVO Inc.; California Natural Gas Vehicle Coalition; Maas Energy Works, Inc.

Most supporting parties stated that an incentive reservation system would provide certainty for developers in securing the limited amount of incentive funds, and thereby enable better financing of dairy digester projects. SoCalGas and SDG&E mention unexpected delays, and program funds being available at the commencement of the project but exhausted by the end of the project as examples in which there are uncertainties for the biomethane developers.⁶ The supporting parties commented that an incentive reservation system would allow the developers to reserve the funds and ensure that the money is available once the project successfully demonstrates biomethane injection.

Dairy Cares and AECA emphasized that the “Commission should develop participation criteria that will ensure only serious, permitted, and viable projects” receive a reservation.^{7,8} Harvest Power, Inc., SoCalGas, and SDG&E

⁶ SoCalGas, and SDG&E, July 27, 2018, Comments on Assigned Commissioner’s Amended Scoping Memo and Ruling at 19.

⁷ Dairy Cares, July 27, 2018, Comments on Assigned Commissioner’s Amended Scoping Memo and Ruling at 6.

⁸ AECA, July 27, 2018 Comments on Assigned Commissioner’s Amended Scoping Memo and Ruling at 4.

also noted that the reservation system should be transparent.^{9,10} There were no comments opposed to establishing an Incentive Reservation System.

3.2. Discussion

This decision establishes an Incentive Reservation System to facilitate the implementation of the biomethane monetary incentive program. Currently, there is no certainty that a developer will receive the biomethane monetary incentive program funds when the facility is interconnected and meets the criteria for receiving incentives. The Commission agrees that an Incentive Reservation System will provide more financial certainty for investors and developers of biomethane projects.

The Incentive Reservation System will create a queue to allow qualified projects to reserve funding from the program and receive the incentive once the projects are operating. The system is meant to promote transparency, provide certainty for project developers and investors, and facilitate investment in and development of biomethane interconnection projects. The proposed requirements for the Incentive Reservation System are intended to ensure that only viable projects are eligible to reserve a funding spot.

Applications and the reservation list (and any waiting list) for the Incentive Reservation System will be accepted by and maintained by the Commission's Energy Division. The Commission's Energy Division will begin accepting applications for the Incentive Reservation System 60 days after this

⁹ Harvest Power, Inc., July 27, 2018, Comments on Assigned Commissioner's Amended Scoping Memo and Ruling at 6.

¹⁰ SoCalGas, and SDG&E, July 27, 2018, Comments on Assigned Commissioner's Amended Scoping Memo and Ruling at 19

Decision. For applications received on the first day, the Commission will award reservations in order of the date of application for interconnection.

To ensure that the Incentive Reservation System remains transparent, the number of projects with a reservation, the number of projects on the waiting list, and the amount of remaining biomethane incentive funds, will be made publicly available by the Commission. The identity of incentive fund recipients and amounts received will also be made publicly available by the Commission.

3.3. Incentive Reservation System Application Process

Initial Reservation:

A reservation will be approved upon receipt and verification of a complete Incentive Application that includes the following:

- ✓ Contact Information
 - (a) First name, Last Name, Title, Company Name, Street Address, City, County, State, Zip Code, Office Phone, Mobile Phone, Fax Number, Email
- ✓ Interconnecting Facility Information
 - (a) Project name
 - (b) Project location
 - (c) Approximate location and information of the proposed Point of Interconnection
 - (a) Site Plan showing facility location and Point of Interconnection
- ✓ Proposed schedule
 - (a) Proposed commercial Operation Date
 - (b) Proposed Terms of Service (years)

- ✓ Documentation of a pending application for pipeline interconnection with the respective utility with:

- (1) Completed Step 1 Study

- (a) SoCalGas/SDG&E - 'Interconnection Capacity Study'¹¹; PG&E - 'Initial Feasibility Study'¹²; SW Gas - 'Interconnection Capacity Study';¹³ and

- (2) Submitted application for Step 2 Study

- (b) SoCalGas/SDG&E - 'Preliminary Engineering Study';¹⁴ PG&E - 'Design Scope and Preliminary Estimate';¹⁵ SW Gas - 'Interconnection Engineering Studies'¹⁶

When the Energy Division determines an application meets the eligibility criteria and funds are available, it will award an Incentive Reservation. If the project is eligible but funds are not available to reserve, the Energy Division will place the project on the waiting list, and then award an Incentive Reservation for the project if and when funds become available. The Energy Division will notify the applicant of these determinations.

¹¹ SoCalGas, Gas Supplier Interconnection Project Fact Sheet, <https://www3.socalgas.com/1443740708188/gas-supplier-interconnection-factsheet.pdf>

¹² PG&E, Request for Gas Supply Interconnection, https://www.pge.com/pge_global/common/pdfs/for-our-business-partners/interconnection-renewables/interconnections-renewables/request-for-gas-supply-interconnection.pdf

¹³ SW Gas, Rule 22, https://www.swgas.com/7200000202041/RULE_22--Biomethane-Gas---effective-March-8.pdf

¹⁴ SoCalGas, Rule 39, <https://www3.socalgas.com/for-your-business/energy-market-services/new-or-expanded-interconnection-receipt-points>

¹⁵ PG&E, Request for Gas Supply Interconnection, https://www.pge.com/pge_global/common/pdfs/for-our-business-partners/interconnection-renewables/interconnections-renewables/request-for-gas-supply-interconnection.pdf

¹⁶ SW Gas, Rule 22, https://www.swgas.com/7200000202041/RULE_22--Biomethane-Gas---effective-March-8.pdf

The Energy Division may modify the criteria for an initial Incentive Reservation and continuing eligibility to reflect changes to the utilities' interconnection processes.¹⁷

Continuing Eligibility:

For applications to SoCalGas/SDG&E and PG&E only, after the final Step 2 Study report is issued, the applicant has sixty (60) days to commence the Step 3 Study process with the utility to maintain its spot on the Incentive Reservation System. For SoCalGas/SDG&E, the Step 3 process involves initiating the 'Detailed Engineering Study', and for PG&E, initiating the 'Engineering and Construction Phase'. The applicant is responsible for notifying the Commission of the start of its Step 3 Study process.

As an operational deadline, projects must be operating within three years of the date of Energy Division's award of an Incentive Reservation to qualify to receive the incentives. The Executive Director may extend this date if there are delays that are beyond the control of the applicant. The Commission's Energy Division will verify initial and continuing eligibility.

Prior to making any incentive payment, the utility must confirm with the Commission that the project has an active reservation. The Utilities shall notify the Commission of all incentive payments that are made within 48 hours, and whether the payment is all or part of the eligible incentive amount for that facility.

¹⁷ Pursuant to an Order in this proceeding dated August 22, 2019, utilities will be submitting a joint Standard Renewable Gas Interconnection Tariff which may modify the utilities' processes for interconnection.

4. Addressing Rate Recovery for Interconnection Infrastructure Under Section 784.2

Public Utilities Code § 399.24 requires that the Commission “shall adopt polies and programs that promote the in-state production and distribution of biomethane.” Section 784.2 provides “[b]efore the exhaustion of the funds made available pursuant to the monetary incentive program for biomethane projects adopted in Decision (D.) 15-06-029 and no later than July 1, 2019, the commission shall open a proceeding to consider options to further the goals of Section 399.24, including consideration of whether to allow recovery in rates of the costs of investments” in infrastructure that connects biomethane facilities to the gas distribution pipelines. The Commission may authorize rate recovery for “prudent and reasonable” biomethane interconnection investments if it finds that the investments “provide a direct benefit, such as safety, reliability, affordability, or reducing greenhouse gas, to all classes of ratepayers and are in the interest of all classes of ratepayers.” At this time, the Commission does not have adequate information to make the findings referred to above, although, as described below, projects are currently underway that will provide the relevant information.

While Section 784.2 clearly expresses a desire for the Commission to consider rate recovery for pipeline interconnection costs before the incentive funds are exhausted, most of those funds remain unused. The incentive program established in D.15-06-029 and modified in D.16-12-043 authorized \$40 million in statewide funding, with \$3 million available per project and for dairy cluster projects (defined as three or more dairies in close proximity), \$5 million available per project. The incentives are paid after the facility has begun successfully injecting biomethane into the pipeline. As of this date, only two facilities have

received incentives, and there is approximately \$32 million in ratepayer funding that remains available for other biomethane projects seeking to interconnect to the gas pipeline system. As more projects take advantage of these incentives, this will provide additional information to inform the Commission's evaluation under Section 784.2.

In addition, pursuant to Health and Safety Code 39730.7 and D.17-12-004, the Commission authorized dairy biomethane pilot projects to demonstrate interconnection to the gas pipeline system, with full ratepayer funding of the infrastructure required for interconnection. These pilot projects present an ideal opportunity to collect data and determine how to fulfill the statutory objectives of AB 3187. Six dairy biomethane pilot projects were selected in December 2018.¹⁸ These projects have completed environmental review and executed construction agreements with the utility. However, they are only in the early stages of construction and much information about their costs and operations is not yet known.

The dairy biomethane pilot projects, in conjunction with the existing monetary incentive program, will allow the Commission to evaluate the biomethane production and interconnection process on a small scale and apply lessons learned to the emerging industry as a whole. The results of these pilot projects will assist the Commission in conducting the evaluation required by Section 784.2. Because the dairy pilot projects are still in development, it is premature to make general determinations about recovery in rates for investments in infrastructure to interconnect biomethane generation to the

¹⁸ CPUC, CARB, and Department of Food and Agriculture Select Dairy Biomethane Projects to Demonstrate Connection to Gas Pipelines, December 2018, <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M246/K748/246748640.PDF>

natural gas pipeline network. As results from the pilot projects become available, we will establish a schedule in this (or a successor) rulemaking for determining whether to allow recovery in rates of costs of investments for interconnection of biomethane projects more broadly.¹⁹

5. Categorization

The Commission has determined in prior rulings that this is a quasi-legislative proceeding. Accordingly, *ex parte* communications are permitted without restriction or reporting requirement pursuant to Article 8 of the Commission's Rules of Practice and Procedure.

6. Comments on Proposed Decision

The proposed decision of the Commissioner in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

7. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Karl J. Bemesderfer is the assigned Administrative Law Judge in this proceeding.

¹⁹ We also note that another action underway to promote production and distribution of biomethane is implementation of SB 1440, codified in Section 651 of the Public Utilities Code. This statute requires the Commission, in consultation with the State Air Resources Board, to consider adopting specific biomethane procurement targets or goals for each gas corporation. The Commission's Energy Division has commenced the consultation with the Air Board that is necessary for implementation of SB 1440.

Findings of Fact

1. The Commission established a biomethane pipeline interconnection incentive program in Decision (D.) 15-06-029 to encourage biomethane producers to design, construct, and to successfully operate biomethane projects that interconnect with the gas utilities' pipeline systems.

2. AB 2313 (Williams)²⁰ (Public Utilities Code Section 399.19) extended the pipeline interconnection incentive program to December 21, 2021 and increased the incentives to \$3 million for non-dairy clusters, up to 50% of interconnection costs, and \$5 million for dairy clusters, up to 50% of interconnection and gathering costs. The Commission implemented AB 2313 in D.16-12-043. SB 457 (Hueso)²¹ further extended the program to December 31, 2026 or until all funds are exhausted, whichever comes first.

3. The biomethane monetary incentive program has approximately \$32 million remaining.

4. Six dairy digester biomethane pilot projects that will receive ratepayer funding for all pipeline interconnection costs were selected in December 2018 and now are underway.

Conclusions of Law

1. Currently, there is no certainty that incentive funds will remain available for a project that completes interconnection and meets the standards for receiving an incentive.

²⁰ AB 2313 (Williams 2016),
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2313

²¹ SB 457 (Hueso 2019)
https://leginfo.legislature.ca.gov/faces/billTextclient.xhtml?bill_id=20190200SB457

2. The Incentive Reservation System will create a queue to allow qualified projects to reserve funding from the program and receive the incentive once the projects complete interconnection and meet the standards for receiving an incentive.

3. The requirements for the Incentive Reservation System are intended to ensure that only viable projects are eligible to reserve a funding spot.

4. The Incentive Reservation System will facilitate development of projects that inject biomethane into the natural gas pipeline system.

5. Because the incentives represent a large expenditure of ratepayer funds, it is reasonable to make the identity of pipeline interconnection incentive recipients and amounts received publicly available.

6. The Commission does not have adequate information to conduct the evaluation of rate recovery of biomethane pipeline interconnection costs required by Public Utilities Code Section 784.2 at this time. It will conduct that evaluation using information that will be obtained from the dairy biomethane pilot projects that are currently underway.

O R D E R

IT IS ORDERED that:

1. The Commission will maintain and accept applications for the Incentive Reservation System.

2. The Commission's Energy Division will begin accepting applications for the Incentive Reservation System 60 days after this Decision.

3. The Commission will make the reservation list, waiting list and remaining biomethane monetary incentive program funds publicly available.

4. The Commission's Energy Division will verify initial and continuing eligibility of the projects.

5. A complete Incentive Reservation System Application shall include the following:

A. Contact Information

- i. First name, Last Name, Title, Company Name, Street Address, City, County, State, Zip Code, Office Phone, Mobile Phone, Fax Number, Email

B. Interconnecting Facility Information

- i. Project name
- ii. Project location
- iii. Approximate location and information of the proposed Point of Interconnection
- iv. Site Plan showing facility location and Point of Interconnection

C. Proposed schedule

- i. Proposed commercial Operation Date
- ii. Proposed Terms of Service (years)

D. Documentation of a pending application for pipeline interconnection with the respective utility with:

- i. Completed Step 1 Study
 1. SoCalGas/SDG&E - 'Interconnection Capacity Study'; PG&E - 'Initial Feasibility Study'; SW Interconnection Capacity Study
- ii. Submitted application for Step 2 Study
 1. SoCalGas/SDG&E - 'Preliminary Engineering Study'; PG&E - 'Design Scope and Preliminary Estimate'; SW Interconnection Engineering Study

6. An applicant must notify the Utility when it receives a reservation or is placed on the waiting list.

7. Pacific Gas & Electric, Southern California Gas Company, San Diego Gas & Electric, and Southwest Gas Corporation shall provide a monthly report to the Energy Division within 5 days of the end of the month, for all applicants with a reservation or on the waiting list, reporting verification of the completion of the Step 1 Study, the application for the Step 2 Study, commencement of the Step 3 Study process, and status of the interconnection project.

8. For Southern California Gas Company, San Diego Gas & Electric and Pacific Gas & Electric applications only, once the final Step 2 Study report is issued, the applicant has sixty (60) days to commence the Step 3 Study process with the utility to maintain its Incentive Reservation.

9. The Energy Division may modify the criteria for an initial Incentive Reservation and continuing eligibility to reflect changes to the utilities' interconnection processes.

10. As an operational deadline, projects must be operating within three years of the date of Energy Division's award of an Incentive Reservation to qualify to receive the incentives. The Executive Director may extend this date if there are delays that are beyond the control of the applicant.

11. Once the reservations in the system exceed the total available incentive funding, completed applications will be put on a waiting list and will be awarded an Incentive Reservation if additional funding becomes available.

12. Prior to making any incentive payment, the Utility must confirm with the Commission that the project has an active reservation.

13. The Utilities shall notify the Commission of all incentive payments that are made within 48 hours, and whether the payment is all or part of the eligible incentive amount for that facility.

14. The identity of incentive recipients and amounts received will be made publicly available by the Commission.

15. The Commission does not have adequate information to conduct the evaluation of rate recovery of biomethane pipeline interconnection costs required by Public Utilities Code Section 784.2 at this time, but will conduct that evaluation using information that will be obtained from the dairy biomethane pilot projects that are currently underway.

16. The pipeline interconnection incentives shall be available until December 31, 2026, or until all available incentive funds are expended, whichever occurs first.

17. Ordering Paragraph 2.a. of D.15-06-029, is modified to state that the incentive program shall be in effect until December 31, 2026... Ordering Paragraph 2.h. of D.15-06029 is modified to sate that the utilities reporting obligation terminates on January 16, 2027.

This order is effective today.

Dated _____, at San Francisco, California.